

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ILLINOIS UNION INSURANCE COMPANY)	CIVIL ACTION
as subrogee of CITY OF LAWRENCE)	
)	NO.04-10475 MLW
Plaintiff,)	
)	
v.)	
)	
THE VIKING CORPORATION)	
)	
Defendant.)	

JOINT STATUS REPORT

Plaintiff Illinois Union Insurance Company (“Illinois Union”) and Defendant The Viking Corporation (“Viking”) jointly submit this Status Report in advance of the Status Conference scheduled by the Court for September 13, 2005 at 2 p.m.

(1) **Fact Discovery.** On July 27, 2005, Viking took the deposition of Kevin McCarthy, Director of Facilities of the City of Lawrence School District. On July 28, 2005, Viking took the deposition of Gregory Hinchcliffe, the Head Custodian of the Guilmette School who was the first person to enter the Guilmette School after the sprinkler head at issue discharged water on or around October 5, 2003.

Viking has inquired whether Illinois Union is able to accept service of subpoenas *duces tecum* of the City of Lawrence Department of Public Works (“DPW”) and the City of Lawrence Fire Department (“Fire Department”). Despite counsel for Illinois Union’s good faith efforts, by telephone and in writing, to obtain permission from the City of Lawrence (the “City”) to accept service of the subpoenas, the City has not responded to any such communications. On August 23, 2005, Viking served the subpoenas *duces tecum* directly on the DPW and the Fire Department, noticed for September 27 and 28, 2005 respectfully.

Viking has also inquired whether Illinois Union is able to accept service of a subpoena *duces tecum* of Jeff Hamm, the claims adjuster for Eastland Claims involved in the restoration the Guilmette School, noticed for September 15, 2005. On September 7, 2005, Illinois Union informed Viking that Mr. Hamm was called to the New Orleans area for the next several months to deal with the aftermath of Hurricane Katrina. Given the circumstances, the parties have agreed to work around Mr. Hamm's schedule and will make every attempt to conduct Mr. Hamm's deposition before the close of fact discovery on November 30, 2005. Illinois Union has also noticed the deposition of Mary Lou Bergeron, Assistant Superintendent of City of Lawrence School District for September 26, 2005.

On September 7, 2005, Illinois Union informed Viking that it intends to notice a Rule 30(b)(6) deposition of Viking. Illinois Union anticipates that it will serve such notice by September 16, 2005.

The parties anticipate that, with the possible exception of Mr. Hamm's deposition, fact discovery will be complete by November 30, 2005 in accordance with the Second Amended Scheduling Order.

(2) **Remaining Deadlines.** The parties anticipate that all remaining deadlines will be met in accordance with the Second Amended Scheduling Order.

Respectfully submitted,

Plaintiff Illinois Union Insurance Company
as subrogee of City of Lawrence,
By Its Attorneys,

/s/ James P. Cullen, Jr.

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Dated: September 12, 2005

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Respectfully submitted,

Defendant Viking Corporation
By Its Attorneys,

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Dated: September 12, 2005